



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R09-RCRA-2021-0431; FRL-8828-02-R9]

Arizona: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action/decision/authorization.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action on the authorization of Arizona's changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). These changes were outlined in an application to the EPA and correspond to certain Federal rules promulgated between July 1, 2007, and June 30, 2020. We have determined that these changes satisfy all requirements needed for final authorization.

DATES: This authorization is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice, unless the EPA receives adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the EPA receives adverse comment, we will publish a timely withdrawal in the *Federal Register* informing the public that the authorization will not take effect.

ADDRESSES: All documents in the docket are listed in the www.regulations.gov index.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy. You may also view Arizona's application by contacting the Arizona Department of

Environmental Quality Records Center at 602-771-4380, Monday through Friday, 8:30 a.m. to 4:30 p.m.

Instructions: Submit your comments to EPA, identified by Docket ID No. EPA-R09-RCRA-2021-0047, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). The <https://www.regulations.gov> website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Sorcha Vaughan, Vaughan.Sorcha@epa.gov, 415-947-4217.

SUPPLEMENTARY INFORMATION:

A. Why is the EPA using a direct final authorization?

The EPA is publishing this authorization without a prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. This action is a routine program change. However, in the “Proposed Rules” section of this *Federal Register*, we are publishing a separate document that will serve as the proposed rulemaking allowing the public an opportunity to comment. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this authorization, see the ADDRESSES section of this document.

If the EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that this direct final authorization will not take effect. We will address all public comments in a subsequent final authorization and base any further decision on the authorization of the state program changes after considering all comments received during the comment period.

B. Why are revisions to state programs necessary?

States that have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized states at the same time they take effect in unauthorized states. Thus, the EPA

will implement those requirements and prohibitions in Arizona, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

C. What decisions has the EPA made in this authorization?

Arizona submitted a complete program revision application dated June 7, 2021, seeking authorization of changes to its hazardous waste program corresponding to certain Federal rules promulgated between July 1, 2007 and June 30, 2020. The EPA concludes that Arizona's application to revise its authorized program meets all of the statutory and regulatory requirements established under RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, the EPA proposes to grant Arizona final authorization to operate its hazardous waste program with the changes described in the authorization application, and as outlined below in section F of this document.

Arizona has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its program revision application, subject to the limitations of HSWA, as discussed above.

D. What is the effect of this authorization decision?

The effect of this decision is that the changes described in Arizona's authorization application will become part of the authorized State hazardous waste program and will therefore be federally enforceable. Arizona will continue to have primary enforcement authority and responsibility for its State hazardous waste program. The EPA will maintain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to: conduct inspections, and require monitoring, tests, analyses, and reports; enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which the EPA is authorizing Arizona are already effective under State law and are not changed by this action.

E. What has Arizona previously been authorized for?

Arizona initially received final authorization on November 20, 1985, to implement its base hazardous waste management program. Arizona received authorization for revisions to its program on August 6, 1991 (56 FR 37290 effective October 7, 1991), July 13, 1992 (57 FR 30905 effective September 11, 1992), November 23, 1992 (57 FR 54932 effective January 22, 1993), October 27, 1993 (58 FR 57745 effective December 27, 1993), July 18, 1995 (60 FR 36731 effective June 12, 1995), March 7, 1997 (62 FR 10464 effective May 6, 1997), October 28, 1998 (63 FR 57605-57608 effective December 28, 1998), March 17, 2004 (69 FR 12544 effective March 17, 2004, originally published on October 27, 2000 (65 FR 64369)), and December 20, 2017 (82 FR 60550 effective January 20, 2018).

F. What changes is the EPA authorizing with this action?

Arizona submitted a final complete program revision application to EPA dated June 7, 2021, seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between July 1, 2007 and June 30, 2020 (Checklists 217-220, 222, 223, 225-242). EPA proposes to determine, subject to receipt of written comments that oppose this action, that Arizona's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all the requirements necessary to qualify for authorization. Arizona adopts by reference the Federal RCRA regulations in effect as of June 30, 2020, at Arizona Administrative Code Title 18, Chapter 8, Article 2 (A.A.C R18-8-260 through 280, effective as of December 31, 2020).

Description of Federal Requirement and Checklist number	Federal Register Volume, Page and Date	Arizona Administrative	Arizona Administrative Code
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		Register (A.A.R) and Effective Date	(A.A.C) Implementing Rule Sections
NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments (217)	73 FR 18970 (4/8/2008)	21 A.A.R 1246 (9/05/2015)	R18-8-264 (A) R18-8-266 (A)
F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes	73 FR 31756 (6/04/2008)	21 A.A.R 1246 (9/05/2015)	R18-8-261 (A)
Revisions to DSW Rule (219)	73 FR 64668-64788 (10/30/2008)	26 A.A.R 2949 (11/03/2020)	R18-8-260 (C) R18-8-261 (A) R18-8-270 (A)
Academic Laboratories Generator Standards (220)	73 FR 72912 (12/01/2008)	21 A.A.R 1246 (9/05/2015)	R18-8-262 (A)
OECD Requirements; Export Shipments of Spent Lead-Acid Batteries (222)	75 FR 1236-1262 (1/8/2010)	21 A.A.R 1246 (9/05/2015)	R 18-8-262 (A) R18-8-263 (A) R18-8-264 (A) R18-8-264 (A) R18-8-266 (A)
Technical Corrections/Clarifications (223)	75 FR 12989-13009 (3/18/2010), 75 FR 31716-31717 (6/4/2010)	21 A.A.R 1246 (9/05/2015)	R18-8-260 (C) R18-8-262 (A) R18-8-262 (A) R18-8-263(A) R18-8-264 (A) R18-8-265 (A) R18-8-266 (A) R18-8-268 R18-8-270 (A)
Removal of Saccharin and its Salts from the list of HW (225)	75 FR 78918-78926 (12/17/2010)	21 A.A.R 1246 (9/05/2015)	R18-8-261(A) R18-8-268
Academic Laboratories Generator Standards Technical Corrections (226)	75 FR 79304 (12/20/2010)	21 A.A.R 1246 (9/05/2015)	R18-8-261 (A) R18-8-262 (A)
Revisions to Treatment Standards of Carbamate Wastes (227)	76 FR 34147-34157 (6/13/2011)	21 A.A.R 1246 (9/05/2015)	R18-8-268
Technical Correction/Clarification (228)	77 FR 22229-22232 (4/13/2012)	21 A.A.R 1246 (9/05/2015)	R18-8-261 (A) R18-8-266 (A)
Conditional Exclusions for Solvent Contaminated Wipes (229)	78 FR 46448-46485 (7/31/2013)	21 A.A.R 1246 (9/05/2015)	R18-8-260 (A) R18-8-261 (A)

Conditional Exclusion for Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities (230)	79 FR 350 (1/03/2014)	25 A.A.R 435 (2/05/2019)	R18-8-260 (C) R18-8-261 (A)
Hazardous Waste Electronic Manifest System (231)	79 FR 7518-7563 (2/7/2014)	25 A.A.R 435 (2/05/2019)	R18-8-260 (C) R18-8-262 (A) R18-8-263 (A) R18-8-264 (A) R18-8-265 (A)
Revisions to Export Provisions of the Cathode Ray Tube (CRT) Rule (232)	79 FR 36220-36231 (6/26/2014)	25 A.A.R 435 (2/05/2019)	R18-8-260 (C) R18-8-261 (A)
Revision to DSW Rule - Non-waste determinations and variances (233)	80 FR 1694-1814 (1/13/2015)	26 A.A.R 2949 (11/03/2020)	R18-8-260 (C) R18-8-261 (A) R18-8-270 (A)
Vacatur of Comparable Fuels and Gasification (234)	80 FR 18777-18780 (4/8/2015)	25 A.A.R 435 (2/05/2019)	R18-8-260 (C) R18-8-261 (A)
Disposal of Coal Combustion Residuals from Electric Utilities (235)	80 FR 21302 (4/17/2015)	25 A.A.R 435 (2/05/2019)	R18-8-261 (A)
Imports and Exports of Hazardous Waste (236)	81 FR 85696-85729 (11/28/2016), 82 FR 41015-41016 (8/29/2017)	25 A.A.R 435 (2/05/2019)	R18-8-260 (C) R18-8-261 (A) R18-8-262 (A) R18-8-263 (A) R18-8-264 (A) R18-8-265 (A) R18-8-266 (A) R18-8-273
Generator Improvements Rule (237)	81 FR 85732-85829 (11/28/2016)	25 A.A.R 435 (2/05/2019)	R18-8-260 (C) R18-8-265 (A) R18-8-268 R18-8-270(A) R18-8-273
Confidentiality Determinations for Hazardous Waste Export and Import Documents (238)	82 FR 60894-60901 (12/26/2017)	25 A.A.R 435 (2/05/2019)	R18-8-260 (C) R18-8-261 (A) R18-8-262 (A)
Hazardous Waste Electronic Manifest System User Fee (239)	83 FR 420-462 (1/3/2018)	25 A.A.R 435 (2/05/2019)	R18-8-260 (C) R18-8-262 (A) R18-8-263 (A) R18-8-264 (A) R18-8-265 (A)
Safe Management of Recalled Airbags (240)	83 FR 61552 (11/30/2018)	26 A.A.R 2949 (11/03/2020)	R18-8-260 (C) R18-8-261 (A) R18-8-262 (A)

Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine (241)	84 FR 5816 (2/22/2019)	26 A.A.R 2949 (11/03/2020)	R18-8-260 (C) R18-8-261(A) R18-8-262 (A) R18-8-263 (A) R18-8-264 (A) R18-8-265 (A) R18-8-266(A) R18-8-286 R18-8-270 (A) R18-8-273
Universal Waste Regulations: Addition of Aerosol Cans (242)	84 FR 67202 (12/09/2019)	26 A.A.R 2949 (11/03/2020)	R18-8-260 (C) R18-8-261 (A) R18-8-264 (A) R18-8-265 (A) R18-8-268 R18-8-270 (A) R18-8-273

G. Where are the revised state rules different than the Federal rules?

More Stringent: When revised state rules differ from the Federal rules in the RCRA state authorization process, the EPA determines whether the state rules are equivalent to, more stringent than, or broader in scope than the Federal program. Pursuant to RCRA section 3009, 42 U.S.C. 6929, state programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. Although the statute does not prevent states from adopting regulations that are broader in scope than the Federal program, states cannot receive Federal authorization for such regulations, and they are not federally enforceable.

Since 1984, Arizona's hazardous waste rules have contained several procedural requirements that are more stringent than EPA's. These more stringent procedural requirements are authorized by Arizona Revised Statutes (ARS) section 49-922, which in directing Arizona to adopt hazardous waste rules, prohibits only nonprocedural standards that are more stringent than EPA's. There are no State requirements in the program revisions listed in the table above that are considered to be more stringent or broader in scope than the Federal requirements.

Removed Rules: On March 1, 2019, Arizona updated its hazardous waste program rules and removed the following procedural requirements that were more stringent than the EPA's Rules:

- **Annual Reports:** Arizona eliminated the requirement that Large Quantity Generators, Transfer, Storage and Disposal (TSD) Facilities, and Recyclers submit annual reports [previously in AAC R18-8-260(E)(3); R18-8-262(H), R18-8-264(I) and R18-8-265(I), ACC R18-8-261 (J)].
- **Hazardous Waste Manifest:** Arizona no longer requires hazardous waste generators, transporters and TSD Facilities to provide a copy of all hazardous waste manifests to Arizona's Department of Environmental Quality monthly [previously in AAC R18-8-262(I) and (J); R18-8-263(C), R18-8-264(J) and R18-8-265(J)].

Nondelegable Rules: The EPA cannot authorize states to implement certain Federal requirements associated with the Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule (Checklist 232), Confidentiality Determinations for Hazardous Waste Export and Import Documents Rule (Checklist 238), and the Hazardous Waste Electronic Manifest User Fee Rule (Checklist 239). Arizona has adopted these requirements and appropriately preserved the EPA's authority to implement them.

Other than the differences discussed above, Arizona incorporates by reference the remaining Federal rules listed in section F, so there are no significant differences between the remaining Federal rules and the revised State rules being authorized in this action.

H. Who handles permits after the authorization takes effect?

When final authorization takes effect, Arizona will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits that the EPA issued prior to the effective date of authorization until they expire or are terminated. The EPA will not issue any new permits or new portions of permits for the provisions listed in the table above after the

effective date of the final authorization. The EPA will continue to implement HSWA requirements for which Arizona is not yet authorized. The EPA has the authority to enforce state-issued permits after the state is authorized.

I. How does this action affect Indian country (18 U.S.C. 1151) in Arizona?

Arizona is not authorized to carry out the hazardous waste program in Indian country. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over Indian country and will continue to implement and administer the RCRA program on these lands.

J. What is codification and is the EPA codifying Arizona's hazardous waste program as authorized in this authorization?

Codification is the process of placing citations and references to the state's statutes and regulations that comprise the state's authorized hazardous waste program into the Code of Federal Regulations. The EPA does this by adding those citations and references to the authorized state rules in 40 CFR part 272. The EPA is not codifying the authorization of Arizona's revisions at this time. However, the EPA reserves the ability to amend 40 CFR part 272, subpart L, for the authorization of Arizona's program changes at a later date.

K. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes state requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by state law. Therefore, this action is not subject to review by OMB. I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as

described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of a state RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), the EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this authorization, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of this action in accordance with the “Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the

executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). “Burden” is defined at 5 CFR 1320.3(b). Executive Order 12898 (59 FR 7629, February 16, 1994), as amended by Executive Order 14008 (86 FR 7619, February 1, 2021), establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this action authorizes pre-existing state rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by state law, and there are no anticipated significant adverse human health or environmental effects, this authorization is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: September 1, 2021.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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